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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,917	03/10/2004	Kevin E. Dove	GK/56	7031
28596	7590	02/21/2006	EXAMINER	
GORE ENTERPRISE HOLDINGS, INC. 551 PAPER MILL ROAD P. O. BOX 9206 NEWARK, DE 19714-9206			VO, HAI	
			ART UNIT	PAPER NUMBER
			1771	

DATE MAILED: 02/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/798,917

Applicant(s)

DOVE, KEVIN E.

Examiner

Hai Vo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-112 is/are pending in the application.
- 4a) Of the above claim(s) 73-106 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-72 and 107-112 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Election/Restrictions

1. Applicant's election of Group I, claims 1-72, and 107-112 in the reply filed on 12/06/2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. The claim objections have been withdrawn in view of the present amendment.
3. The rejections of claim 27 over the 112, second have been withdrawn in view of the present amendment.
4. All of the art rejections are maintained.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-72 and 107-112 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It appears that the language of the claims is grammatically ambiguous so as not to clearly and accurately convey the spatial relationship of the claimed elements. The current phraseology is unclear as to how the layers are arranged. The scope becomes unclear since it is not determinable what structure can fall within the scope of the claim.

Double Patenting

8. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

9. Claims 1-72 and 107-112 provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-81 of copending Application No. 10/823,512. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the copending Application No. 10/823,512 fully encompassed the claimed subject matter.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

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10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1-4, 8-10, 14-22, 25-28, 31-35, 39-47, 51-54, 57-67, 71, and 72 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 2004-003617. US 2004/0232624 to Hisano et al will be relied on as an English translation of JP 2004-003617. Hisano teaches a gasket having all the structural limitations as set out in the claims (paragraph no. 132 and 68, figures 23b and 24b). The gasket comprises an adhesive on at least one of the upper and lower gasket surfaces as shown in figure 10. Accordingly, Hisano anticipates the claimed subject matter.

12. Claims 1-3, 5-10, 14-25, 28-34, 39-50, 53-55, 57-59, 61-70, and 107-112 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 01/27501 A1 substantially as set forth in the 08/31/2005 Office Action.

Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 5-7, 11-13, 29, 30, 36-38, 55 and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 2004-003617 as applied to claims 1, 28 and 53 above,

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further in view of Barna et al (US 5,492,336). Hisano does not specifically disclose the gasket having a density less than 1.8 g/cc. Barna, however, discloses a gasket material made from ePTFE containing a filler and having a density of 0.3 g/cc within the claimed range (column 11, lines 30-31, and column 5, lines 50-55). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the ePTFE having a density in the range instantly claimed motivated by the desire to provide a gasket material with lightweight and flexibility to be shaped and retained in various positions for installation. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use filler in the ePTFE motivated by the desire to impart the strength of the gasket material.

15. Claims 23, 24, 48-50, 68-70, and 107-112 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 2004-003617 as applied to claims 1, 28 and 53 above, in view of WO 01/27501. Hisano does not disclose a gasket comprising upper and lower reinforcing layers boned to the upper and lower tape surfaces joining the two laminate tapes. WO'501, however, teaches a gasket comprising upper and lower reinforcing layers boned to the upper and lower tape surfaces joining the two laminate tapes as shown in figures 11, 12 and 27. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the gasket comprising upper and lower reinforcing layers boned to the upper and lower tape surfaces joining the two laminate tapes as disclosed by WO'501 motivated by the desire to provide the gasket surface with better sealing properties.

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16. Claims 11-13, 36-38, and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 01/27501 as applied to claims 1, 28, 53 above, and further in view of Gore (US 3,953,566) substantially as set forth in the 08/31/2005 Office Action.
17. Claims 26, 27, 51, 52, 71, and 72 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 01/27501 as applied to claims 2, 53 above, and further in view of Hamilton et al (US 5,486,010) substantially as set forth in the 08/31/2005 Office Action.
18. Claims 4, 35, and 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 01/27501 substantially as set forth in the 08/31/2005 Office Action.

Response to Arguments

19. The art rejections over WO'501 have been maintained for the following reasons.
- Applicant argues that WO'501 does not teach or suggest the gasket as presently claimed. The examiner directs Applicant to figure 3 of WP'501 wherein the gasket does not have a cutout portion between the two laminated tapes. Likewise, the two laminated tapes were aligned side-by-side along the side surfaces prior to being folded to form a configuration shown in figure 3. Additionally, figure 3 illustrates that the gasket comprises an air permeable layer 46 extending the length of the laminate tapes and position between two laminate tape side surfaces. Figure 5 of WO'501 wherein the gasket does not have a compressed portion between the two laminated tapes. Likewise, the two laminated tapes were aligned side-by-side along the side surfaces prior to being folded to form a configuration as shown in figure 10. WO'501

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teaches the air impermeable layers comprised of densified expanded PTFE made by compressing the microporous expanded PTFE (page 14, lines 30-35). Likewise, the compressed region shown in figure 5 is an air permeable regions made from densified expanded PTFE, which reads on Applicant's air permeable layer extending the length of the laminate tapes and position between two laminate tape side surfaces. Accordingly, the art rejections are sustained.

Conclusion

20. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Vo whose telephone number is (571) 272-1485.

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The examiner can normally be reached on Monday through Friday, from 6:00 to 2:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HV

Hai Vo

**HAIVO
PRIMARY EXAMINER**